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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

21 **THE SIERRA CLUB and ENVIRONMENTAL  
22 INTEGRITY PROJECT,**

23 Plaintiffs,

24 *vs.*

25 **UNITED STATES ENVIRONMENTAL  
26 PROTECTION AGENCY,**

27 Defendant.

Case No. C-11-0846-MEJ

**FIFTH SUPPLEMENTAL JOINT CASE  
MANAGEMENT REPORT**

This is an action brought by Plaintiffs pursuant to the Freedom of Information Act, 5 U.S.C. § 552, to compel production of documents. The information request upon which this suit is based, sought information submitted to defendant relating to the operations of coal-fired power plants owned by the Luminant Corporation.

After the parties completed briefing cross-motions for summary judgment, but before oral argument on same, on May 20, 2012, the Court vacated the scheduled hearing and ordered the parties to meet and confer in her chambers on May 30, 2012. Dkt. No. 50. After fruitful discussion in chambers, the parties agreed to continue with informal settlement discussions in an effort to resolve this matter without further litigation. Accordingly, the parties engaged in a number of direct and informal settlement conference calls and have exchanged a settlement proposal. Additionally, as the Parties informed the Court, recent EPA enforcement activities involving Luminant have impacted EIP and Sierra Club's interest in the documents at issue in this matter. Because the parties required additional time in which to explore possible resolution of this case, when they reported back to the Court on September 20, 2012, they requested that the case be stayed until November 21, 2012 by which time they would inform the Court of the status of their settlement efforts. Dkt. No. 52. The Court so ordered. Dkt. No. 53.

The parties reported to the court on November 21, 2012, that they desired additional time to explore a possible settlement of this case. Dkt. No. 54. Accordingly, the Court set December 21, 2012 as a deadline for the parties to report their progress in this regard. Dkt. No. 55.

The parties then reported to the court on December 19, 2012, that they desired an additional 60 days to explore a possible settlement of this case. Dkt. No. 56. Accordingly, the Court set February 21, 2013 as a deadline for the parties to report their progress in this regard. Dkt. No. 57.

On February 27, 2013, the parties again reported that they desired additional time to explore a possible settlement of this case. Dkt. No. 58. Accordingly, the Court set May 28, 2013 as a deadline for

1 the parties to report their progress in this regard. Dkt. No. 59. The Parties apologize to the Court that  
 2 they did not submit this report by May 28, 2013.

3 On May 31, 2013, the parties again reported that they desired additional time to explore a possi-  
 4 ble settlement of this case. Dkt. No. 61. Accordingly, the Court set July 15, 2013 as a deadline for the  
 5 parties to report their progress in this regard. Dkt. No. 62.

6 The Parties have continued their dialogue, believe they are making substantive progress toward  
 7 reaching a settlement, have exchanged additional substantive settlement proposals — including drafts of  
 8 a settlement agreement, including a new draft exchanged today — and are closer to a general consensus  
 9 on how to settle the case. However, because of the complexity of the issues involved, the Parties require  
 10 additional time to negotiate the details of the settlement terms and obtain approval for a final settlement  
 11 from their respective organizations. They therefore desire additional time in which to explore a negoti-  
 12 ated resolution to this dispute.

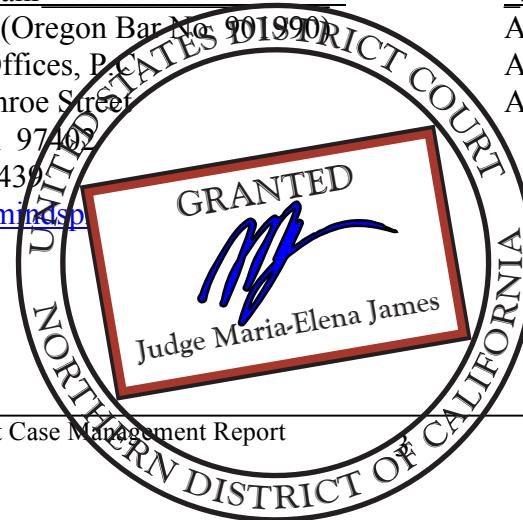
13 Accordingly, the Parties request that they be provided an additional 21 days in which to attempt  
 14 to conclude their settlement negotiations and report back to the Court on the status of same no later than  
 15 August 6, 2013.

16 Respectfully submitted for the Court's consideration, this 15<sup>th</sup> day of July, 2013.

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 18 MELINDA HAAG  
 19 United States Attorney  
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22 s/ David Bahr

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22 s/ Abraham Simmons

23 ABRAHAM SIMMONS  
 24 Assistant United States Attorney  
 25 Attorneys for Federal Defendant  
 26 The parties' request  
 27 for an additional 21  
 28 days is GRANTED. A joint  
 status report shall be  
 filed on August 6, 2013.

22 DATED: 7/16/2013